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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,250	07/10/2001	Gerald T. Mearini	0937.0016	9551

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EXAMINER

FULLER, ERIC B

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/902,250

Applicant(s)

MEARINI ET AL.

Examiner

Eric B Fuller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 20 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2-4, 6, 20 and 23-27 is/are rejected.
- 7) ☒ Claim(s) 5 and 7-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 6, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 6, 23, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Debley et al. (US 5,529,671).

Debley teaches providing multiple substrates (column 8, lines 1-2; figure 4, refs. 63 and 64), a fixed ion source (column 7, lines 60-65; figure 4, ref. 19), a selectively movable target (evaporator) that is positioned at a standby position and source deposition location (figure 4, ref. 51), and material is deposited on the substrates. The shutters are taught (figure 4, line 20). Multiple targets that are moved into the source

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deposition location are taught (column 8, lines 9-29; figure 4, refs. 51' and 51''). The reference teaches the standby location being longitudinally spaced from the source deposition location. Thus fails to teach it being laterally spaced. However, it has been held that rearrangement of parts, as long as the same function is performed, would have been obvious. *In re Japikes* 86 USPQ 70; *In re Rose* 105 USPQ 237.

Arrangement of parts such that the location is laterally spaced as opposed to longitudinally spaced would have been obvious with a reasonable expectation of success, as the mode of operation is not changed.

Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Debley et al. (US 5,529,671), as applied to claim 3 above, and further in view of Kelley et al. (US 4,101,925).

Debley teaches the limitations of claim 3, as shown above, but fails to explicitly teach rotating the substrate. However, Kelley teaches that the speed at which the substrate is rotated is significant in achieving thin uniform layers (column 3, lines 58-65). Speeds within the applicant's claims are taught. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to rotate the substrates of Debley by the speeds taught by Kelley. By doing so, one would reap the benefits of achieving uniform films.

***Allowable Subject Matter***

Claim 1 is allowed.

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Claims 5 and 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach, or make obvious, the limitation of ceasing deposition of the layer prior to achieving target thickness, by shuttering the substrates, then independently unshuttering the substrates to resume deposition in order to achieve target thickness, in combination with the limitations from which they depend.

### ***Response to Arguments***

Applicant argues that the cited prior art of the previous Office Action fails to anticipate the claims as they have been amended. Examiner agrees and has withdrawn the rejections based on 35 USC 102 of the previous Office Action. However, as indicated above, the limitation added by amendment would have been an obvious modification of the taught processes.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B Fuller whose telephone number is (571) 272-1420. The examiner can normally be reached on Mondays through Thursdays.

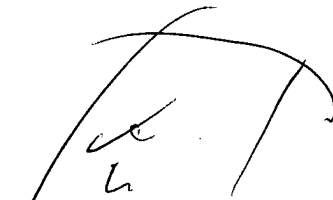
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Meeks, can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EBF



TIMOTHY MEEKS  
PRIMARY EXAMINER